

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SHENG-WEN CHENG,

Plaintiff,

v.

JEREMY MAUTZ,

Defendant.

CASE NO. 3:23-cv-05324-TL

ORDER

This matter is before the Court on its own motion. This civil case was initiated by Plaintiff Sheng-Wen Cheng in the U. S. District Court for the Southern District of New York, but the case was transferred to this Court on venue grounds because Plaintiff is currently incarcerated in a federal prison in Minnesota and the named Defendant is believed to be a resident of Tacoma, Washington. *See* Dkt. No. 8. Prior to being transferred, Plaintiff was granted *in forma pauperis* status as a federal prison pursuant to 28 U.S.C. § 1915(b)(1). Dkt. No. 6. Having reviewed Plaintiff's complaint, and because Plaintiff is proceeding *pro se* and *in forma pauperis*, the Court ORDERS the following:

- 1 1. The Clerk shall send service forms to Plaintiff. Plaintiff shall return the service
2 forms and the correct number of service copies of his complaint to serve each
3 named defendant **within 30 days** of entry of this Order. The service forms must
4 be completely and accurately filled out. Plaintiff's failure to return to the Clerk
5 the service forms and service copies of the complaint within 30 days of entry of
6 this Order will result in the dismissal of Plaintiff's complaint.
- 7 2. If the plaintiff returns the service forms and service copies of his complaint, the
8 Clerk is directed to effect service as provided below:
 - 9 a. It is hereby ORDERED that the Clerk shall send the following to each
10 named defendant for whom there is a completed service form by first class
11 mail: (i) a copy of the complaint and of this Order, (ii) two copies of the
12 Notice of Lawsuit and Request for Waiver of Service of Summons, (iii) a
13 Waiver of Service of Summons, and (iv) a return envelope, postage
14 prepaid, addressed to the Clerk's Office. All costs of service shall be
15 advanced by the United States.
 - 16 b. Defendants shall have **thirty (30) days** within which to return the
17 enclosed Waiver of Service of Summons. Each defendant who timely
18 returns the signed Waiver shall have **sixty (60) days** after the date
19 designated on the Notice of Lawsuit to file and serve an answer or a
20 motion directed to the complaint, as permitted by Rule 12 of the Federal
21 Rules of Civil Procedure. Any defendant who fails to timely return the
22 signed Waiver will be personally served with a summons and complaint,
23 and may be required to pay the full costs of such service, pursuant to
24 Rule 4(d)(2). A defendant who has been personally served shall file an

1 answer or motion permitted under Rule 12 within **thirty (30) days** after
2 service.

3 3. All original documents and papers submitted for consideration by the court in this
4 case, are to be filed with the Clerk of this court. The originals of all such papers
5 shall indicate in the upper right-hand corner the name of the Judge to whom the
6 copies are to be delivered. The papers shall be accompanied by proof that such
7 documents have been served upon counsel for the opposing party (or upon any
8 party acting pro se). The proof shall show the day and manner of service and may
9 be by written acknowledgment of service, by certificate of a member of the bar of
10 this court, or by affidavit of the person who served the papers.

11 4. Any request for court action shall be set forth in a motion, properly filed and
12 served. The motion shall include in its caption (immediately below the title of the
13 motion) a designation of the date upon which the motion is to be noted upon the
14 court's calendar. That date shall be as provided in the Court's Local Rules. If a
15 party fails to file and serve timely opposition to a motion, the court may deem any
16 opposition to be without merit. The party making the motion may file, not later
17 than 4:30 p.m. on the date designated for consideration of the motion, a response
18 to the opposing party's briefs and affidavits.

19 5. If one of the parties files a motion for summary judgment pursuant to Federal
20 Rules of Civil Procedure 56, the opposing party should acquaint him/herself with
21 Rule 56. Rule 56 requires a nonmoving party to submit affidavits or other
22 evidence in opposition to a motion for summary judgment if the moving party has
23 shown the absence of issues of material fact and an entitlement to judgment as a
24 matter of law. A nonmoving party may not rest upon the mere allegations or

1 denials of prior pleadings. Rather, successful opposition to a motion for summary
2 judgment requires the nonmoving party to set forth, through affidavits or other
3 evidence, specific facts showing a genuine issue for trial. Failure by the
4 nonmoving party to oppose a summary judgment motion or to present counter
5 evidence could result in the Court accepting the moving party's evidence as the
6 truth, and entering final judgment in favor of the moving party without a full trial.
7 *Rand v. Rowland*, 113 F.3d 1520 (9th Cir. 1997).

8 6. No direct communication is to take place with the District Judge or Magistrate
9 Judge with regard to this case. All relevant information and papers are to be
10 directed to the Clerk.

11 7. The Clerk is DIRECTED to send a copy of this Order to Plaintiff.

12 Dated this 27th day of April 2023.

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15 Tana Lin
16 United States District Judge
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